

ESTTA Tracking number: **ESTTA557978**

Filing date: **09/05/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The H.D. Lee Company, Inc.
Granted to Date of previous extension	09/08/2013
Address	3411 Silverside Road Wilmington, DE 19810 UNITED STATES
Attorney information	Paul J. Kennedy, Esquire PEPPER HAMILTON LLP 3000 Two Logan Square Eighteenth and Arch Streets Philadelphia, PA 19103-2799 UNITED STATES kennedyp@pepperlaw.com, catalant@pepperlaw.com Phone:215-981-4194

Applicant Information

Application No	85590362	Publication date	03/12/2013
Opposition Filing Date	09/05/2013	Opposition Period Ends	09/08/2013
Applicant	ENNIS, BOBBY LEE 3876 HODGDON CORNERS DRIVE LITHONIA, GA 30038 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Women's clothing, namely, shirts, dresses, skirts, blouses

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	430728	Application Date	11/07/1945
Registration Date	06/24/1947	Foreign Priority Date	NONE
Word Mark	LEE		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class U039 (International Class 025). First use: First Use: 1945/11/02 First Use In Commerce: 1945/11/02 WAISTBAND OVERALLS

U.S. Registration No.	967611	Application Date	08/08/1972
Registration Date	09/04/1973	Foreign Priority Date	NONE
Word Mark	LEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U039 (International Class 025). First use: First Use: 1916/00/00 First Use In Commerce: 1916/00/00 MEN'S, WOMEN'S AND CHILDREN'S OUTER CLOTHING-NAMELY, PANTS AND SLACKS, SHORTS, SHIRTS AND BLOUSES, COATS, JACKETS, GLOVES, CAPS, JEANS, BIB OVERALLS, ONEPIECE WORK SUITS, WORK OR UTILITY UNIFORMS, SMOCKS AND SERVICE OR SHOP COATS		

U.S. Registration No.	991466	Application Date	06/07/1973
Registration Date	08/20/1974	Foreign Priority Date	NONE
Word Mark	LEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U039 (International Class 025). First use: First Use: 1945/11/02 First Use In Commerce: 1945/11/02 WAISTBAND OVERALLS, JEANS, JACKETS AND OUTER SHIRTS		

U.S. Registration No.	991469	Application Date	06/26/1973
Registration Date	08/20/1974	Foreign Priority Date	NONE
Word Mark	LEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U039 (International Class 025). First use: First Use: 1973/06/11 First Use In Commerce: 1973/06/11 SLACKS, JEANS, JACKETS, SPORT COATS, SWEATERS AND OUTER SHIRTS		

U.S. Registration No.	2010868	Application Date	11/29/1994
Registration Date	10/22/1996	Foreign Priority Date	NONE
Word Mark	LEE SPORT		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1995/03/13 First Use In Commerce: 1995/03/13 jackets; fleecewear, namely sweatpants, shorts and shirts

U.S. Registration No.	3363140	Application Date	09/03/2004
Registration Date	01/01/2008	Foreign Priority Date	NONE
Word Mark	LEE 1889		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/05/31 First Use In Commerce: 2007/05/31 Clothing, namely, jackets, shirts, shorts, jeans, pants and skirts		

U.S. Registration No.	3486160	Application Date	06/23/2004
Registration Date	08/12/2008	Foreign Priority Date	NONE
Word Mark	LEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2000/11/09 First Use In Commerce: 2000/11/09 on-line retail store services in the field of apparel; providing consumer product information via the Internet		

Attachments	09-05-2013 Notice of Opposition (H.D. Lee v. Ennis).pdf(78368 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Paul J. Kennedy/
Name	Paul J. Kennedy, Esquire
Date	09/05/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE H. D. LEE COMPANY, INC.	:	
	:	
	:	Opposition No.
	:	
Opposer	:	Mark: LADYLEE
	:	
v.	:	Application Serial No.: 85590362
	:	
BOBBY LEE ENNIS	:	Published in <i>Official Gazette</i>: March 12, 2013
	:	
	:	Filed: April 5, 2012
	:	
Applicant	:	
	:	

NOTICE OF OPPOSITION

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

The H. D. Lee Company, Inc., a Delaware corporation with offices at 3411 Silverside Road, Wilmington, Delaware 19810 (“Opposer”), believes it will be damaged by the issuance of a trademark registration to Bobby Lee Ennis, an individual with a mailing address stated as 3876 Hodgdon Corners Drive, Lithonia, Georgia 30038 (“Applicant”), for the mark LADYLEE (Serial No. 85590362) in International Class 25, and hereby opposes the application.

As grounds for the opposition, Opposer alleges that:

1. Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the mark LADYLEE for “women's clothing, namely, shirts, dresses, skirts, blouses” in International Class 25 (“Applicant’s Mark”).

2. Applicant is not now, and never was, entitled to registration on the Principal Register of Applicant’s Mark either on April 5, 2012, the date of Applicant's filing of the intent-to-use based application, or on March 12, 2013, the date of publication in the *Official Gazette*.

3. Opposer is the owner of several federal trademark registrations as follows:

a. LEE® (Registration No. 430728) (1947), for “waistband overalls” in International Class 25;

b. LEE® (Registration No. 967611) (1973), for “men’s, women’s and children’s outer clothing, namely, pants and slacks, shorts, shirts and blouses, coats, jackets, gloves, caps, jeans, bib overalls, onepiece work suits, work or utility uniforms, smocks and service or shop coats” in International Class 25;

c. LEE® (Registration No. 991466) (1974), for “waistband overalls, jeans, jackets and outer shirts” in International Class 25;

d. LEE® (Registration No. 991469) (1974), for “slacks, jeans, jackets, sport coats, sweaters and outer shirts” in International Class 25;

e. LEE SPORT® (Registration No. 2010868) (1996), for “jackets, fleecewear, namely sweatpants, shorts and shirts” in International Class 25;

f. LEE 1889® (Registration No. 3363140) (2008), for “clothing, namely, jackets, shirts, shorts, jeans, pants and skirts” in International Class 25; and

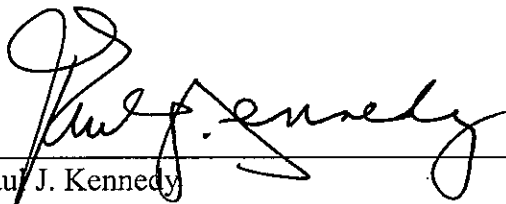
g. LEE® (Registration No. 3486160) (2008), for “on-line retail store services in the field of apparel; providing consumer product information via the Internet” in International Class 35, (collectively, “Opposer’s Marks”).

4. Opposer has, since long prior to the filing date of Applicant’s intent-to-use based application, sold in commerce its goods under Opposer’s Marks. Through usage by Opposer, the Opposer’s Marks have become well-known to consumers and potential customers as trademarks of Opposer and as an origin and source indicator of the goods sold and provided by Opposer.

5. Because Applicant’s Mark contains the exact mark of Opposer’s Marks (“LEE”), and the fact that Applicant’s proposed mark will ultimately be used on the same or similar products as those of the Opposer, and within the same classification, Applicant’s Mark is likely to cause confusion, mistake, or deception amongst the general and consuming public as to whether Applicant’s goods are being offered by, or in affiliation with, Opposer, hence causing damage to Opposer.

Accordingly, Opposer requests that registration of the mark LADYLEE (Serial No. 85590362) be denied to Applicant and this opposition be sustained.

DATE: September 5, 2013

A handwritten signature in black ink, appearing to read "Paul J. Kennedy", is written over a horizontal line.

Paul J. Kennedy
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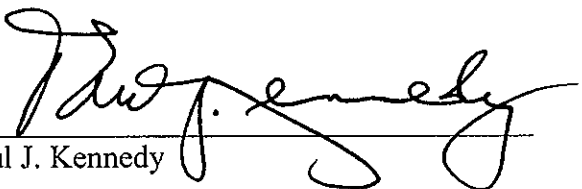
*Attorneys for Opposer
The H. D. Lee Company, Inc.*

CERTIFICATE OF SERVICE

I, Paul J. Kennedy, hereby certify that on September 5, 2013, a true and correct copy of the foregoing Notice of Opposition was served via U.S. First Class Mail, postage prepaid, upon the following:

Chase E. Scott, Esquire
Parks IP Law LLC
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Atlanta, GA 30338

Attorneys for Applicant



Paul J. Kennedy